

REMARKS

With this Response, no claims are amended, added, or canceled. Therefore, claims 1-25 are pending.

STATUS OF THE CASE

Applicants note that this is the fourth Office Action received on this case, the first Action being mailed on January 9, 2003. Thus, prosecution of this case has proceeded for more than two years, and the Office has yet to produce a reference that is relevant, at least with regard to an element of the claims that Applicants have pointed out in their Responses, and which was in the claims as filed. Each of the independent claims in Applicants' claimed invention recite a "session." The Office has failed to cite a reference that is even purported to disclose this element. Applicants submit that the delay caused by the Office's lack of citing relevant references is prejudicial to the Applicants.

As discussed in previous attempts, both telephonic and in writing, to work with the Office on this case, "a communication **session** refers to a concept associated with the protocol layers of a communication system, where a remote station registers with, for example, a base station to have a right to access certain communication channels for a certain duration. [Not all systems define sessions to enable communication.] Termination of a session terminates the right of the remote station to communicate over the communication channel. Tear-down of the link on the channel will follow. A termination of the session **requires the remote station to re-register** to re-establish the right to access the communication channel before the remote station can communicate on the channel. The communication channels are typically defined in the communication protocol employed by the communication system. Thus, a session is an upper protocol layer concept as compared to the physical layers that handle the electrical characteristics

of signal transmission." Once again, the Office has chosen to recite a reference that makes no mention of communication sessions, and refers instead to packet transfer, and timing associated with packet transfer. Specifically, the latest reference discusses timing associated with transfer of a particularly large data packet. As discussed by Applicants in a previous Response, "The timing and format of a packet is handled at the physical layer level of a transmitter. The physical layers are concerned with the transmission of packets, and not with whether the system operates over dedicated channels, open access channels, or whether a session must be established to communication over a channel." Packet transfer and communication sessions are concepts that may work together, but do not necessarily suggest one another.

Applicants would be happy to have their representative, the below signing individual, discuss the underlying technology related to this application with the Office. The Applicants therefore respectfully request that the Office contact the below signing representative to discuss this case over the telephone to attempt to prevent further delay of the prosecution of this matter.

CLAIM REJECTIONS - 35 U.S.C. § 102

Claims 1, 4-8, 11-18, and 22-25 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,804,250 issued to Johansson et al. (*Johansson*). Applicants respectfully submit that these claims are not anticipated by the reference for at least the following reasons.

As per MPEP § 2131, to establish a *prima facie* case of anticipation, the Office Action **must** show evidence to suggest that "**each and every element** as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." The Office Action has again failed to meet its burden in establishing a *prima facie* case of anticipation under MPEP § 2131. Each of the independent claims, 1, 8, and 15 recite a "session." The Office Action has

failed to address this element of the claims, and provides **no basis** in the cited references to suggest that such a limitation could be found therein. Applicants submit that no person of skill in the art could understand the cited references as disclosing or suggesting a session, as recited in the claims.

The merits of the secondary references have been addressed in previous Responses. As to the *Johansson* reference, Applicants note that *Johansson* discusses the temporary interruption of service to an active communication channel in order to free resources sufficient to transmit a large burst of data without exceeding system resource limitations (i.e., bandwidth, power, etc.). See col. 7, line 5 to col. 8, line 7. The reference fails to disclose or suggest anything to do with communication sessions, which sessions may or may not even be present in the system of *Johansson* (see above). Applicants are unable to determine if perhaps the reason this reference was selected was the mention in the reference of a "time period," and the Office Action strained to interpret this phrase as a "session." The Office Action makes no mention of what in the reference is purported to disclose or suggest a communication session, and so has failed to provide a complete rejection of the invention as recited in the claims. Applicants therefore have no obligation to respond to the rejection.

CLAIM REJECTIONS - 35 U.S.C. § 103

Claims 2-3 and 9-10 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Johansson* in view of U.S. Patent No. 6,587,985 issued to Fukushima et al. (*Fukushima*). The rejection of these claims under 35 U.S.C. § 103(a) is based upon a rejection under *Johansson*, which is discussed above. As discussed above, the rejection under *Johansson* fails to address at least one element of the claimed invention. As per MPEP § 2143, to establish a *prima facie* case of obviousness, the Office Action **must** show evidence to suggest that the cited references

disclose **every element** of the claimed invention. The Office Action has failed to meet its burden, and thus has failed to establish a *prima facie* case of obviousness. Furthermore, as to the same element missing from the discussion of the Office Action under *Johansson*, Applicants' previous Response has shown that *Fukushima* fails to disclose or suggest this element.

Claims 19-21 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Johansson* and *Fukushima* in view of U.S. Patent No. 6,374,112 B1 issued to *Widegren* et al. (*Widegren*). This rejection is similarly based upon the rejection under *Johansson*, and therefore fails for at least the reasons set forth above. Furthermore, Applicants have discussed the merits of the *Widegren* reference in a previous Response, and showed that it fails to render the claimed invention unpatentable.

CONCLUSION

Applicants are unable to understand how the cited reference is purported to disclose or suggest the invention as recited in the claims. To the extent that Applicants have understood the rejections and the cited reference, the Office Action has failed to establish that the claim limitations are disclosed in the cited reference. Accordingly, the Office Action has failed to provide a proper rejection of the claims under the cited references.

The Examiner is respectfully requested to contact the undersigned by telephone if such contact would further the examination of the present application.

Please charge any shortages and credit any overcharges to our Deposit Account number
02-2666.

Respectfully submitted,
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN, LLP

Date: 2/17/05

Vincent H. Anderson
Vincent H. Anderson

Reg. No. 54,962

12400 Wilshire Blvd., 7th Floor
Los Angeles, CA 90025-1026
Telephone: (503) 439-8778

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